

STATE OF MICHIGAN
COURT OF APPEALS

In the Estate of JOSEPH GERALD PROVENZANO,
Deceased.

UNPUBLISHED
September 15, 1998

DOROTHY PRINS, Personal Representative of the
Estate of JOSEPH GERALD PROVENZANO,
Deceased,

Petitioner-Appellee,

v

JOSEPH WILLIAM MOCH,

Respondent-Appellant,

and

PETER PROVENZANO,

Respondent-Appellee.

No. 201479
Kent Probate
LC No. 95-160519 SE

Before: Cavanagh, P.J., and Murphy and White, JJ.

PER CURIAM.

On February 4, 1997, the Kent Probate Court entered an opinion and order declining to approve the full amount of attorney fees requested for appellant Joseph William Moch's legal work on behalf of an estate. Appellant appeals as of right. We affirm.

Dorothy Prins, the court-appointed personal representative of the estate of Joseph Gerald Provenzano, retained attorney Joseph William Moch to perform legal services for the estate. Prins filed a petition requesting that the Kent Probate Court approve a final account, including

attorney fees to Moch of \$12,188.09. The court held a hearing on the petition on December 6, 1996, and took the matter under advisement. On February 4, 1997, Kent Probate Judge Janet A. Haynes entered an opinion and order declining to approve the amount requested and instead approving attorney fees of \$5,000.

An attorney who performs legal services on behalf of an estate is entitled to reasonable compensation for the representation. MCL 700.541; MSA 27.5541; MCR 8.303; *In re Krueger Estate*, 176 Mich App 241, 248; 238 NW2d 898 (1989). The probate court has broad discretion in determining the reasonable amount of attorney fees. *Id.* Among the factors the court should consider are "the amount of time spent, the amount of money involved, the character of the services rendered, the skill and experience necessary, and the results obtained." *Id.* at 248-249 (citing *In re Estate of Weaver*, 119 Mich App 796, 799; 327 NW2d 366 (1982); *In re O'Neill Estate*, 168 Mich App 540, 543; 425 NW2d 133 (1988)). The court also may consider the factors set forth in MRPC 1.5(a) and SJI2d 180.03. *Krueger, supra* at 250.

This Court reviews a probate court's award of attorney fees for an abuse of discretion. *In re Prichard Estate*, 164 Mich App 82, 88; 416 NW2d 331 (1987). In making its attorney fee determination, the probate court must make findings of fact sufficient to enable this Court to review the decision. *Redfern v R E Dailey & Co*, 146 Mich App 8, 21; 379 NW2d 451 (1985). Thus, the probate court must make a record from which this Court can determine how the court exercised its discretion. *Id.*; see also *In re Wright Estate*, 156 Mich App 1, 10; 401 NW2d 288 (1986), rev'd on other grounds 430 Mich 463; 424 NW2d 268 (1988); *In re Estate of Weaver, supra* at 799.

Appellant contends that in the February 4, 1997, opinion and order the probate court did not make adequate findings of fact. Appellant asserts that the court discussed specifically only some of the entries in appellant's time records, that the court did not fully discuss the facts or reference specific entries when it concluded that some of the requested time was not for legal work, and that the court did not adequately justify or give specific reasons for its decision to limit the attorney fees to \$5,000. Concluding that the ruling was conclusory and nonspecific, appellant requests that this Court remand the case, instructing the probate court to make adequate findings of fact.

In making findings of fact, a court is not required to detail its findings on each specific factor considered. *Howard v Canteen Corp*, 192 Mich App 427, 437; 481 NW2d 718 (1991); *Butt v DAIIE*, 129 Mich App 211, 222; 341 NW2d 474 (1983). In its opinion and order, the probate court set forth the factors it considered, made findings of fact, provided examples to explain its findings of fact, and gave reasons for its conclusion. "It is apparent that the court reflected on all of the factors pertinent to a proper valuation decision." *In re Estate of Weaver, supra* at 799. The court made a record from which this Court could determine how the court made its decision. *Redfern, supra* at 21. The findings of fact are adequate for this Court to review the decision for an abuse of discretion. *Id.* Appellant's argument to the contrary is without merit.

II

Appellant argues that the probate court's reliance upon information regarding customary fees obtained from local probate attorneys is an error requiring reversal.

In its February 4, 1997, opinion and order, the probate court stated:

A review of local probate attorneys indicate [sic] that, given the facts and circumstances of the instant case, legal fees were estimated to be in the \$3,500 to \$5,000 range, and given the size of the estate and the results obtained, the requested attorney fee of \$12,188.09 is shocking to the Court.

Appellant asserts that the probate court erred in relying upon evidence outside the record.

Generally, courts may not consider evidence outside the record in making their rulings. See *In re Krueger Estate*, *supra* at 251; *In re Thacker Estate*, 137 Mich App 253, 258; 358 NW2d 342 (1984). However, this Court has held that, in an exception to this general rule, a probate court may obtain information from local attorneys regarding customary fees. In determining a reasonable attorney fee, the probate court in *In re Thacker Estate* "considered information not presented in open court, namely, information regarding attorney fees derived from Michigan State Bar Association publications, other judges, and the local bar." *Id.* at 255. The appellant objected that the court erred in considering information not presented in open court. *Id.* at 257. In affirming the probate court, this Court explained that a probate judge is encouraged to rely in part upon personal knowledge in determining a reasonable attorney fee, *id.* at 258, and held that probate judges may increase their personal knowledge by independently gathering additional information regarding attorney fees:

We believe it would be incongruous to encourage judges to use personal knowledge in setting an acceptable attorney fee, but to hold that a judge cannot increase his knowledge. Accordingly, we do not believe the trial court's gathering of additional information, which was disclosed to appellant, was error. [*Id.*]

Just as in *In re Thacker Estate*, in this case the probate court considered information from local attorneys and, in its ruling, disclosed its reliance on the additional information. *Id.* at 257-58. The probate court did not err in considering information about customary fees obtained from members of the local bar. Appellant's argument to the contrary is without merit.

Affirmed.

/s/ Mark J. Cavanagh
/s/ William B. Murphy
/s/ Helene N. White